

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 93 – HB 82

March 23, 2015

SUMMARY OF ORIGINAL BILL: Removes the authorization for the Commissioner of Financial Institutions to use a national multi-state automated licensing system (NMLS) as an agent for channeling information that the Commissioner is authorized to use pursuant to the Flexible Credit Act (Public Acts 2014, Public Chapter 969).

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004172): Deletes all language of the original bill. Authorizes the Commissioner of the Department of Financial Institutions to require a licensee to consent to a criminal history records check and to provide with the application for a license renewal fingerprints in a form acceptable to the Commissioner. Requires such criminal history checks to be conducted by the Tennessee Bureau of Investigation (TBI), or the Federal Bureau of Investigation (FBI), or both, and requires all costs incurred to be paid by the licensee. Prohibits the Commissioner from using a multi-state automated licensing system for sharing any FBI criminal history background information, unless authorized to do so by federal law.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue – \$3,800/Tennessee Bureau of Investigation

Increase State Expenditures – \$3,800/Tennessee Bureau of Investigation

Assumptions for the bill as amended:

- The Department of Financial Institutions reports that the FBI has not approved the NMLS as a channeling agent of FBI criminal history record information between the states and the FBI for persons other than mortgage loan originators. Therefore, the NMLS cannot currently be used as a channeling agent for criminal history record information between the Department and the FBI under the Flexible Credit Act.
- Further, the FBI has informed the Department that, because the Act references the NMLS as a channeling agent, the Department will not have authorized access to FBI

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criminal history record information for Flexible Credit Act applicants through the normal Tennessee Bureau of Investigation (TBI) channels, where criminal history record checks would otherwise be channeled through the TBI to the FBI with results being returned through the TBI to the Department.

- The proposed legislation would remove the reference to the NMLS as a channeling agent and, therefore, facilitate the means for the Department to conduct, through the TBI and FBI, criminal history record checks as originally intended by the Flexible Credit Act.
- The number of background checks as a result of this removal will not change from the number previously estimated as a result of passage of the Flexible Credit Act.
- Authorizing the Commissioner to require a licensee to consent to a criminal history records check and to provide with the application for a license renewal fingerprints will result in a recurring increase in expenditures to the TBI and an equivalent recurring increase in revenue to the TBI.
- TBI estimates that 100 criminal history records checks will be performed each year, resulting in a recurring increase in state expenditures and a recurring increase in state revenue of approximately \$3,800.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Increase Business Expenditures – \$3,800

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 45-12-106(b)(2), all costs incurred in conducting the criminal history record checks are to be paid by applicants.
- Based on the assumptions above, the recurring increase in licensee expenditures is estimated to be \$3,800.
- Any impact on the number of private sector jobs is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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